

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Parts 1, 21 and 74 to Enable)	MM Docket No. 97-217
Multipoint Distribution Service)	
and Instructional Television Fixed)	
Service Licensees To Engage in Fixed)	
Two-Way Transmissions)	

ORDER EXTENDING TIME FOR FILING COMMENTS AND REPLY COMMENTS

Adopted: December 5, 1997

Released: December 5, 1997

Comment Date: January 8, 1998

Reply Comment Date: February 9, 1998

By the Chief, Mass Media Bureau:

1. On October 7, 1997, the Commission adopted a notice of proposed rulemaking in this docket. *Amendment of Parts 1, 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, FCC 97-360 (rel. Oct. 10, 1997) (hereinafter *NPRM*). Comments on the *NPRM* currently are due by December 9, 1997, and reply comments currently are due by January 8, 1998. On November 25, 1997, the Catholic Television Network ("CTN"), an association of 18 Roman Catholic Archdioceses and Dioceses which hold Instructional Television Fixed Service ("ITFS") licenses, filed a request for supplemental comment period and extension of time to comment on the *NPRM*. On December 1, 1997, the parties who commenced this proceeding ("Petitioners") filed a response supporting the idea of an extended comment period and addressing the proposals advanced by CTN.

2. While generally supporting the *NPRM*, CTN expresses concern that the proposed rules likely will create a potential for "brute force overload" interference from response station transmitters to nearby ITFS receive sites which are not cochannel or adjacent channel to the response stations. CTN argues that such interference does not exist in the current architecture for ITFS and Multipoint Distribution Service ("MDS") stations, and that it would jeopardize the continued viability of ITFS. CTN believes that a two-way system should be implemented only if sufficient frequency separation is provided between "downstream" and "upstream" transmissions. CTN urges that interested parties now be afforded an opportunity to comment on its proposal to "refarm" the E, F, G and H channel groups to create a band of contiguous ITFS spectrum at 2500-2620 MHz and a band of contiguous spectrum dedicated for response transmissions at 2644-2690 MHz, which would make available up to 24 MHz of spectrum

devoted to downstream MDS operations as a guard band between ITFS downstream transmissions and any response transmissions.

3. Specifically, CTN proposes that ITFS G channel licensees be allowed to (i) consent to their channels being used as response channels, so long as their ITFS programming requirements are satisfied on other channels within the wireless cable system; (ii) request relocation of some or all of their channels to vacant or vacated ITFS frequencies, or to MDS Channels E1-2 and F1-2 (thus further involving relocation of the E channel group and F channel group licensees to the remaining E and F channels and to the G/H channel groups), with the wireless cable operator paying all expenses of relocation; or (iii) enter into a shared-time agreement with another ITFS licensee, under which both licensees could use the G channels for response transmissions, and G channel licensees could fulfill their ITFS programming requirements on the channels of their ITFS partners. CTN adds that Section 74.902(d)(1) of the Commission's Rules should not apply when implementing these solutions, all 125 KHz response channels at 2686-2690 MHz should be reallocated to ITFS and used only for response transmissions, and that MDS channels 1 and 2/2A also may be used as commercial response stations. CTN suggests that its refarming proposal will achieve several goals, including reducing harmful interference potential, eliminating the need for performing complex studies of potential response station interference to downstream ITFS stations, using the spectrum as efficiently as possible for the benefit of existing and future users, and preserving the spectrum reservation for ITFS. CTN requests that the comment and reply comment filing dates in this docket be extended by at least 30 days.

4. Petitioners counter that the potential for brute force overload interference to ITFS receive sites is not as great as CTN fears, and that CTN has focused on just one of many possible solutions to any interference that does occur, while others may be more efficient in a particular market. As an alternative, for instance, Petitioners advocate that it should be the responsibility of the response station hub licensee to either cure any brute force overload interference to protected ITFS receive sites or to cease operating the offending transceiver. Regarding CTN's proposal, Petitioners disagree with it in two major respects. First, they argue that it unnecessarily limits the location of response channels in the 2.5 GHz band to the G and H channel groups. Second, they disagree that refarming only should occur where the ITFS licensee on the G channels voluntarily agrees. Instead, they believe that the Commission should require MDS and ITFS licensees to retune to other frequencies in the band at the cost of the proponent of such retuning, when doing so promotes the introduction of advanced technologies in a spectrally efficient manner and where "comparable facilities" enjoying the same levels of interference protection are available. In order to avoid unnecessary burdens on the Commission's staff, Petitioners suggest a three-step process for handling retuning proposals: (1) written notice to the licensee requested to retune; (2) private negotiations; and (3) where necessary, Commission intervention. While maintaining that marketplace pressures make time of the essence in adopting rules in this proceeding, Petitioners acknowledge that briefly extending the comment period established by the *NPRM* may expedite the ultimate resolution of the issues, by providing a better record on the CTN proposal and allowing for continued negotiations between the wireless cable and ITFS communities aimed at developing a common position on critical issues before the

Commission in this proceeding. Petitioners thus request an extension of no more than 14 days for each filing date.

5. As set forth in Section 1.46 of the Commission's Rules, 47 C.F.R. § 1.46, it is our policy that extensions of time for filing comments in rulemaking proceedings shall not be routinely granted. However, given the recent submission of CTN's proposal and its potential importance to this proceeding, the complexity of CTN's proposal and of the other issues involved in this proceeding, and that time is of the essence if the wireless cable industry is to become a viable competitor in offering multiple information delivery systems, we believe it is appropriate to grant an additional 30 days in which to file comments and reply comments.

6. Accordingly, IT IS ORDERED that the Request for Supplemental Comment Period and Extension of Time filed in MM Docket No. 97-217 IS GRANTED to the extent that interested parties are afforded an additional 30 days in which to file comments and reply comments.

5. IT IS FURTHER ORDERED that the time for filing comments in the above-captioned proceeding IS EXTENDED to **January 8, 1998**, and the time for filing reply comments in the above-captioned proceeding IS EXTENDED to **February 9, 1998**.

6. This action is taken pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Sections 0.204(b), 0.283, and 1.45 of the Commission's rules, 47 C.F.R. §§ 0.204(b), 0.283, and 1.45.

FEDERAL COMMUNICATIONS COMMISSION

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